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Attorneys for the United States

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

APPROXIMATELY \$1,200,000.00 IN
U.S. CURRENCY SEIZED FROM FIRST
CALIFORNIA BANK ACCT. NO.
2005638,

APPROXIMATELY \$225,958.84 IN U.S.
CURRENCY SEIZED FROM BANK OF
AMERICA ACCT. NO. 004653665607,
and

APPROXIMATELY \$177,695.11 IN
FUNDS CONNECTED TO A
TRANSFER TO THE UNITED STATES
OF AMERICA FROM BULLIVANT
HOUSER BAILEY,

Defendants.

2:05-CV-00149 JAM-DAD

STIPULATION TO DISMISS AS TO
ONE DEFENDANT AND ORDER
THEREON

The United States of America and claimants Judith L. Hollis on behalf of the Estate of John W. Hollis ("Hollis"), Universal Insurance Exchange ("Universal"), and Bennett Truck Transport, LLC ("Bennett"), stipulate as follows:

1. Universal is a general unsecured creditor of Tri-Continental Exchange Ltd. ("TCE"), Combined Services, Ltd. ("CSL") and/or Alternative Market Exchange Ltd.

1 ("AME), collectively referred to herein as the "Debtors." Bennett asserts constructive trust
2 and unsecured claims against the debtors and the forfeiture funds. Bennett also asserts
3 a lien on the funds pursuant to California Code of Civil Procedure § 708.410.

4 2. The United States has filed a civil forfeiture action against the defendant
5 funds, alleging that the funds were involved in, or are traceable to, money laundering
6 violations committed by Robert L. Brown a.k.a. Matthew Schachter ("Brown) through
7 TCE and CSL, and/or constitute or are derived from the proceeds of mail fraud, or a
8 conspiracy to commit such offense, committed by Brown through TCE and CSL.

9 3. Bennett filed a Claim to all of the defendant funds on November 23, 2005,
10 filed a Lien on Pending Action on January 10, 2006, and filed an Answer to the Complaint
11 on January 9, 2006.

12 4. John W. Hollis ("Hollis") filed a Claim to all of the defendant funds on or
13 about December 19, 2005.

14 5. Universal filed a Claim to all of the defendant funds on March 24, 2006, and
15 filed an Answer to the Verified Complaint for Forfeiture *In Rem* (the "Complaint") on April
16 11, 2006.

17 6. In a Memorandum of Opinion and Order dated July 19, 2005, (hereafter
18 "District Court Order") this Court granted, in part, the United States's motion to dismiss
19 Hollis's claim. This Court ruled that Hollis did not have standing to assert an interest in
20 the \$1.2 million seized from his trust account at First California Bank Account No.
21 2005638 (Order, at 16), nor did he have standing to assert an interest in the \$177,695.11
22 connected to a transfer to the United States from Bullivant Houser Bailey.

23 7. This Court ruled that Hollis does have standing to assert a claim to the
24 \$225,958.84 seized from Hollis' personal bank account at Bank of America.

25 8. Thereafter, Hollis filed an Answer to the Complaint (under seal) on
26 September 19, 2006, and filed an Amended Answer (under seal) on September 26, 2006.

27 9. The United States and the Liquidators for the debtors (see ¶ 13(a) *infra*)
28 entered into a stipulation to transfer the defendant funds, other than the \$225,958.84

1 described in ¶ 7, to the bankruptcy court for distribution to the debtors' creditors in
2 accordance with all applicable laws.

3 10. On December 12, 2006, an Order was filed dismissing defendants
4 approximately \$1.2 million seized from First California Bank Account No. 2005638, and
5 the approximately \$177,695.11 connected to a transfer to the United States from Bullivant
6 Houser Bailey to the Bankruptcy Court.

7 11. The United States and claimants Hollis, Bennett, and Universal now seek
8 to dismiss this forfeiture action without prejudice, pursuant to Rule 41(a)(2) of the Federal
9 Rules of Civil Procedure against the approximately \$225,958.84 in U.S. Currency seized
10 from Bank of America Acct. No. 004653665607.

11 12. The rights of Bennett and Universal, if any, to the sum described in the
12 preceding paragraph will be determined in accordance with applicable bankruptcy law,
13 forfeiture law, and/or state law. Nothing in this stipulation is intended to adjudicate,
14 hinder, or impair the rights of claimants to the funds, and such rights, if any, are
15 preserved and will be addressed in the insolvency proceedings discussed below.

16 13. The facts in support of this stipulation and request for an Order are as
17 follows:

18 a. Foreign insolvency proceedings were commenced against the
19 Debtors in St. Vincent and the Grenadines before the Eastern
20 Caribbean Supreme Court (the "SVG Proceedings"). A three-
21 person Foreign Representative was duly appointed in the SVG
22 Proceedings to serve as the Joint Liquidators (hereafter "the
23 Liquidators") of the Debtors.

24 b. The U.S. Bankruptcy Court in the Eastern District of
25 California has granted the Liquidator's Petition seeking
26 recognition as the Foreign Representative of the Debtors in a
27 procedure authorized pursuant to Chapter 15 of the United
28 States Bankruptcy Code, 11 U.S.C. § 1501 et seq. Attached to

1 this stipulation as Ex. 1 is a copy of Judge Klein's
2 Memorandum Decision Regarding Recognition of Foreign Main
3 Proceeding filed September 11, 2006.

4 c. In addition, the United States and the Liquidators entered into
5 a stipulation in which the United States agreed that it would
6 seek dismissal of this forfeiture action so that the funds could
7 be transferred to the Bankruptcy Court for administration. A
8 copy of that stipulation is attached as Ex. A to Judge Klein's
9 Order Approving Modified Stipulation Between the United
10 States of America, the Debtors, and John W. Hollis, [hereafter
11 "Order"] attached hereto as Ex. 2.

12 14. In addition, the United States, claimant Hollis, and the Liquidators entered
13 into a separate stipulation in which the parties agreed that the defendant funds identified
14 as the approximately \$225,958.84 seized from Bank of America account No. 004653665607
15 would remain under the jurisdiction of the district court pending completion of the
16 resolution of the competing claims to the \$225,958.84. A copy of that stipulation is
17 attached as Ex. B to Judge Klein's Order (Ex. 2).

18 15. As noted above, the Order (Ex. 2) incorporates the stipulation between the
19 United States and the Liquidators on behalf of the debtor, and the stipulation between
20 claimant Hollis, the United States, and the Liquidators.

21 16. John W. Hollis passed away on June 15, 2012.

22 17. The United States contends that the funds that were seized from claimant
23 Hollis' personal account at Bank of America (approximately \$225,958.84) also belong to
24 TCE and CSL and should be administered in the Chapter 15 case under the supervision
25 of the Bankruptcy Court. Judith L. Hollis, on behalf of the Estate of John W. Hollis, now
26 agrees and stipulates that the approximately \$225,958.84 should be administered in the
27 Chapter 15 cases of TCE and CSL under the supervision of the Bankruptcy Court.
28 Accordingly, at this time the United States, Hollis, Universal, and Bennett seek the

1 dismissal of the forfeiture action as to the defendant approximately \$225,958.84 in U.S.
2 Currency seized from Bank of America account No. 004653665607 to the Bankruptcy
3 Court.

4 18. Upon dismissal of this action as to the \$225,958.84, the United States will
5 take all steps necessary to transfer these funds from the U.S. Department of the Treasury
6 Suspense Account to the Liquidators identified in the September 11, 2006, Memorandum
7 Decision Regarding Recognition of Foreign Main Proceedings (Ex. 1).

8 19. The parties to this stipulation agree that there was reasonable cause for the
9 seizure and arrest of the defendant approximately \$225,958.84 in U.S. Currency seized
10 from Bank of America account No. 004653665607, and that the Court may enter a
11 Certificate of Reasonable Cause pursuant to 28 U.S.C. § 2465.

12 20. The parties further stipulate that even if they receive any distribution of
13 funds in the bankruptcy proceedings, that distribution is not to be considered as a
14 "judgment for the claimant" within the meaning of 28 U.S.C. § 2465(a), nor will that
15 claimant be considered a "prevailing party" within the meaning of 28 U.S.C. § 2465(b).

16 21. Any claimant's entitlement to costs or attorney fees will be determined solely
17 in accordance with applicable law. Under no circumstances will the United States be
18 liable for costs or attorney fees incurred by claimants in this forfeiture action or in the

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1 bankruptcy proceedings.

2 22. There are no other terms or conditions other than those specified herein.

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4 DATED: 9-19-13

BENJAMIN B. WAGNER
United States Attorney

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6 By: /s/ Kevin C. Khasigian
KEVIN C. KHASIGIAN
7 Assistant U.S. Attorney

8
9 DATED: 9-17-13

/s/ Judith L. Hollis
JUDITH L. HOLLIS
10 On behalf of the Estate of Claimant
11 John W. Hollis

12 DATED: 9-17-13

/s/ Tim Warriner
TIM WARRINER
13 Attorney for Judith L. Hollis

14
15
16 DATED: 6-19-13

/s/ Thomas R. Phinney
THOMAS R. PHINNEY
17 Attorneys for Claimant Bennett
18 Truck Transport, LLC

19
20 DATED: 7/2/13

/s/ Gregory J. Hughes
GREGORY J. HUGHES
21 Attorneys for Universal
22 Insurance Exchange

(Signatures retained by attorney)

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24 **IT IS SO ORDERED.**

25 DATED: 9/23/2013

/s/ John A. Mendez
JOHN A. MENDEZ
26 United States District Court Judge

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CERTIFICATE OF REASONABLE CAUSE

Pursuant to the Stipulation for Dismissal and the allegations set forth in the Complaint for Forfeiture *In Rem* filed January 24, 2005, the Court enters this Certificate of Reasonable Cause pursuant to 28 U.S.C. § 2465, that there was reasonable cause for the seizure of the funds identified as the approximately \$225,958.84 in U.S. Currency seized from Bank of America account No. 004653665607.

DATED: 9/23/2013

/s/ John A. Mendez
JOHN A. MENDEZ
United States District Court Judge